

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BOHDAN KLYMCHAK, et al.,

Plaintiffs,

MEMORANDUM & ORDER
09-CV-4311 (MKB)

v.

CARDRONA, INC., et al.,

Defendants.

MARGO K. BRODIE, United States District Judge:

Bohdan Klymchak and Konstantine Tribushny, individually and on behalf of all other persons similarly situated who were employed by Cardrona, Inc., Cardronas, II, Inc., Metal & Roof Supplies, Inc., Ultan Gauigan, Michael Williams and/or Dani Moore, and/or any other entities affiliated with or controlled by Cardrona, Inc., Cardronas, II, Inc., Metal & Roof Supplies, Inc., Ultan Gauigan and/or Dani Moore, filed a Complaint on October 7, 2009, against Cardrona, Inc., Cardronas, II., Inc., Metal & Roof Supplies, Inc., Ultan Gauigan, Michael Williams and/or Dani Moore, and/or any other entities affiliated with or controlled by Cardrona, Inc., Cardronas, II, Inc., Metal & Roof Supplies, Inc., Ultan Gauigan, Michael Williams and/or Dani Moore. (Docket Entry No. 1.) Plaintiffs brought this action pursuant to the Fair Labor Standards Act and state law to recover unpaid overtime, spread of hours compensation and prevailing wages and supplemental benefits. (*Id.*) Additional Plaintiffs, including Artur Mazur, Lukasz Jablonski and Lukasz Sokol, subsequently consented to become a party to the collective action. (*See* Docket Entry Nos. 33, 35, 42.)

On November 1, 2013, Plaintiffs Mazur, Jablonski, Sokol, Klymchak and Tribushny (the “Settling Plaintiffs”) filed a motion to approve a settlement agreement with Defendants Metal & Roof Supplies, Inc. and Paul ‘Dani’ Moore (the “Settling Defendants”). (Docket Entry No. 83.)

On November 5, 2013, the Court referred the motion to Magistrate Judge Arlene R. Lindsay for a report and recommendation. (Order dated November 5, 2013.) By Report and Recommendation (“R&R”) dated December 2, 2013, Judge Lindsay found the proposed settlement agreement to be fair and reasonable and recommended that the settlement be approved. (Docket Entry No. 86.) No objections were filed.

A district court reviewing a magistrate judge’s recommended ruling “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “Failure to object to a magistrate judge’s report and recommendation within the prescribed time limit ‘may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.’” *Sepe v. New York State Ins. Fund*, 466 F. App’x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); see also *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s Report and Recommendation if the party fails to file timely objections designating the particular issue.”).

The Court has reviewed the unopposed R&R and, finding no clear error, the Court adopts Judge Lindsay’s R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). The Settling Plaintiffs’ motion to approve the settlement agreement is granted.

SO ORDERED:

s/ MKB

MARGO K. BRODIE
United States District Judge

Dated: December 20, 2013
Brooklyn, New York